IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 9608 of 2004

Between:

K.P.Anjaneyulu, S/o.Sathidananda Rao,
R/o.Flat No.3, 1st floor, Geeta Mansion, D.No.50-59-7,
Rajendra Nagar,Visakhapatnam.

..... PETITIONER

AND

1 The Chief Controller of Defense Accounts (Pensions), Draupadi

Ghat, Allahabad-211014.
2 The Chief Engineer, HQ Southern Command, Pune-411 001.
3 The Chief Engineer, Navy, Station Road, Visakhapatnam-430 004.
4 The Engineer-in-Chief, Army Head-Quarters, New Delhi-110 003.
5 The Director, PW, Ministry of Personnel Public Grievances &

Pensions, Department of pension & Pensioners Welfare,
3rd floor, Loknayak Bhavan, New Delhi.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the order passed by the Hon'ble Central Administrative Tribunal, at Hyderabad, dismissing R.A.No.34 of 2004 dated 23-04-2004 by

circulation without giving opportunity to the petitioner to argue his case and submit his contention, as illegal, arbitrary, unlawful, null and void and consequently declare that the petitioner is entitled to restoration of 1/3rd portion of commuted pension in terms of Government of India, Ministry of personnel, Public Grievances & Pensions O.M.No.4/59/97-P&PW(D), dated 14-7-1998 with attendant benefits of revision of pension and dearness relief in terms of the above Ministry's OM Nos.4/59/98-P&PW(D) dated 12-1-1999 and 4/29/99-P&pW(D) dated 12-7-2000 considering the effective date of commutation as 9.7.81.

Counsel for the Petitioner: MR.C.S.CHAKRAVARTHY

Counsel for the Respondents 1 to 5: MR. A.Sanjeev Kumar (SC FOR CG)

The Court made the following :

-

-

-

-

-

-

-

ORDER: (Per GB,J)

The petitioner is challenging the order dated 23.04.2004 passed by the Central Administrative Tribunal at Hyderabad in R.A.No.34 of 2004.

2 . The petitioner filed O.A.No.538 of 2001 before the Central Administrative Tribunal, Hyderabad for restoration of his 1/3rd portion of commuted pension. The Tribunal, however, rejected the claim of the petitioner on the ground that the period of 15 years has not been completed after the commutation and therefore disallowed

the claim by an order dated 31.12.2002. Against the said order, he filed review application seeking review of the order passed. The Tribunal, however, again considered the matter and dismissed the same by an order dated 23.04.2004. Against the same, the present writ petition has been filed.

3. The learned counsel for the petitioner, however, submits that the period has to be reckoned from 1981 when the pension was paid and therefore the year 1981 is to be taken into consideration; he would get restoration of pension. But, this is totally based on misconception. The commutation of pension took place admittedly from 1993 and the Department has already intimated him that it will be restored only after completion of 15 years of service viz., 16.12.2008.

4. Under those circumstances, we do not find any ground to allow the writ petition and the writ petition is accordingly dismissed. No costs.

_____

(G.BIKSHAPATHY,J)

_____

(P.S.NARAYANA,J)

Date: 23rd November 2004

Chvn/BSB

To

1 The Chief Controller of Defense Accounts (Pensions), Draupadi

Ghat, Allahabad-211014.
2 The Chief Engineer, HQ Southern Command, Pune-411 001.
3 The Chief Engineer, Navy, Station Road, Visakhapatnam-430 004.
4 The Engineer-in-Chief, Army Head-Quarters, New Delhi-110 003.
5 The Director, PW, Ministry of Personnel Public Grievances &

Pensions, Department of pension & Pensioners Welfare,
3rd floor, Loknayak Bhavan, New Delhi.

6. The Registrar, Central Administrative Tribunal, Hyderabad.

7. Two C.D.copies.